

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C)No.753 of 2022

Shri David Purum, aged 49 years, S/o (L) Sh. Athang Purum, permanent resident of Purum Khullen Village, PO-Pangei, PS Sagolmang, Kangpokpi District, Manipur-795129.

...Petitioner

– Versus –

1. The State of Manipur, represented by the Addl. Chief Secretary(Forest), New Secretariat, Babubara, Manipur-795001.
2. The Principal Chief Conservator of Forests & HoFF, Govt. of Manipur, Sajenthong, Imphal, Manipur-795005.
3. The Chief Conservator of Forests, TP-I, Government of Manipur, Sajenthong, Imphal, Manipur-795005.
4. The Conservator of Forests, Central Forest Circle, Govt. of Manipur, Sajenthong, Imphal, Manipur-795005.
5. The Divisional Forest Officer(DFO), Central Forest Division, Government of Manipur, PO Mantripukhri, P.S. Heingang, Imphal East, Manipur-795002.
6. The DFO, Kangpokpi, PO & PS – Kangpokpi Hq, Kangpokpi District-795129.

7. The Deputy Secretary(Revenue), Bapubara, Old Secretariat, South Block, Imphal-795001.
8. The Deputy Secretary, HAC, Manipur Legislative Assembly, Chingmeirong, Imphal, Manipur-795004.
9. The Addl. Chief Secretary(TA&Hills), Old Secretariat, Babubara, Imphal, Manipur-795001.
10. The Deputy Commissioner, Kangpokpi, PO & PS- Kangpokpi, Hq, Kangpokpi District-795129.

...Respondents

BEFORE

HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioner	:	Ms. H. Bisheshwari, Adv.
For the Respondents	:	Mr. Lenin Hijam, learned AG.
Date of reserved.	:	08.02.2023
Date of Judgment & Order	:	27.02.2023.

JUDGMENT & ORDER
(CAV)

This writ petition has been filed by the petitioner to quash the impugned letter dated 13.11.2020 and to uphold the order of SDM/Sadar Hills, dated 18.6.1971 passed in Misc. Case No.23/71.

2. Brief facts are as follows:

Purum Khullen village was established since the time of their forefathers and in 1612, during the period of Maharaja Khagemba, the settlement of Purum Khullen village was declared and recorded on stone tablet. Again, in 1723 during the period of Maharaja Pamheiba, the settlement of Purum Khullen village was also recorded on stone tablet during the tenure of Telheiba, the then Chief of Purum Khullen and again in 1748. The villagers have been paying their hill house tax through the Deputy Commissioner even before the establishment of the State and subsequently under the Manipur Hill Areas (House Tax) Act, 1966 without any break till date for the land they use.

3. Purum Khullen village was recognized under the Manipur State Hill Peoples (Administration) Regulation, 1947 and subsequently, by the State Government and the village constituted their own Village Authorities under the Manipur (Village Authorities in Hill Areas) Act, 1956. Purum Khullen village has its own distinct and independent boundaries as the title is perfected and it has two colonies, namely Happy Valley towards the north, P. Gelyang towards the south and Purum Khullen in the middle and the aforesaid two colonies were form within the land of Purum Khullen village since 1969. The Court of SDM/Sadar Hills, by an order dated 18.6.1971 in Misc. Case No.23/71, recognized the settlement land area of Purum Khullen demarcated and issued a Map in recognition of the said land.

4. In continuation of the State's developmental project, construction for Manipur International University at Purum Khullen has been underway. As such, on 17.11.2020, the villagers employed workers for leveling of land. However, some officials alleged to be from DFO, Central Range, Mantripukhri, intervened and forcefully stopped the ongoing construction work saying that the said land is situated within Sambei Purum Reserve Forest and not to continue any activity without their permission. Aggrieved by the same, the petitioner submitted a representation to the Hon'ble Minister (Forest) on 24.10.2020 for upholding the order passed by the SDM/Sadar dated 18.6.1971. However, surprisingly, the Chief Conservator showed the impugned letter dated 13.11.2020 with Map cancelling the order passed by the SDM/Sadar dated 18.6.1971. Challenging the order dated 13.11.2020, the petitioner has filed the writ petition.

5. The fifth respondent raising preliminary objection as to the maintainability of the writ petition has filed affidavit-in-opposition stating that Sambei Purum Reserved Forest came into effect in the year 1936 after a resolution of the Manipur State Darbar being Resolution No.4(A) dated 7.10.1936. The said Darbar Resolution spelt out clearly the boundary of Sambei Purum Reserved Forest. Since 7.10.1936, Sambei Purum Hill Range has been a full-fledged Reserved Forest owned by the then Princely State of Manipur under British Rule. Later, after Manipur was merged into the Union of India, the Reserved Forest has been legally protected under the Indian Forest Act, 1927 through the Manipur Administration Order, 1949, the Merged States (Laws) Act,

1949 and the Part C State's Act, 1950. Now, the Sembei Purum Reserved Forest is under the control and regulations of the Forest Department, Government of Manipur. Purum Khullen village is made in the Darbar Resolution No.4(A) dated 7.10.1936 on one hand and on the other, Purum Khullen is a very old village which came into being during the olden Kings time.

6. It is stated that no mention is made of Purum Khullen village in the Darbar Resolution, which confirms that Puurum Khullen village is outside the boundary limit of the Sambei Purum Reserved Forest. Present day, Purum Khullen village barring few households in the nearby hills is situated at the foothills away from the boundary of the Sambei Purum Reserved Forest. The area presently occupied by the main Purum Khullen village is covered by the cadastral survey map of 1960.

7. It is stated that the order of the SDM, Sadar Hills dated 18.6.1971 passed in Misc. Case No.23/71 recognizing settlement land area of Purum Khullen within the Sambei Purum Reserved Forest is unfortunate if it were done so. The subsequent map prepared by the Sub Deputy Collector, Saikul from the description of boundary by the SDM in his order dated 18.6.1971 shall cease to stand as it violates the provisions of the Indian Forest Act, 1927.

8. It is stated that the attempt to construct and establish the Manipur International University within the Sambei Purum Reserved Forest near Purum

Khullen is clearly in violation of Section 26 of the Indian Forest Act, 1927. The Chief of Purum Khullen village, in deliberate disobedience, started excavating huge amount of hill earth by felling the slope of the hills and removing the hill earth without authority and violating Section 26 of the Act.

9. It is stated that there are few households of Purum Khullen village in the Reserved Forest Area near the site where the Chief had tried to construct and establish the Manipur International University. The vesting rights of the households shall be only after the fulfillment of the provisions of the Act and the villagers residing within the Reserved Forest should apply in the prescribed methods as given in the Indian Forest Act. Hence, it is prayed for dismissal of the writ petition.

10. Assailing the impugned letter, the learned counsel for the petitioner submitted that the petitioner who is the Chief of Purum Khullen village has established and occupied the land in question since the time of his forefathers till date without any interference and the village has its own distinct and independent boundaries. He would submit that at present the housing settlement of Purum Khullen village is described north by Sagolmang Lingpikhong and Lok; south by Geijang Khongjaiching; east by Iril river and west by Purum Khuman Chingsang. As such the villagers are the absolute land owners of the land in question, as it has been inherited from their forefathers and has been settling upon the said land peacefully.

11. The learned counsel further submitted that the villagers have been paying hill house tax even before establishment of the State and after becoming State, they are paying tax under the Manipur Hill Areas (House Tax) Act, 1966 to the State through the Chief/Headman without any break till date for the land they use. The villagers have been enjoying the products of the land by way of planting paddy fields, growing seasonal crops openly without any interference from any quarter.

12. The learned counsel then submitted that during the administration in the Union Territory of Manipur, the Chief Commissioner, Manipur bifurcated the territory of Manipur into Districts and Administrative Units on 12.11.1969. As such, the village of Purum Khullen was included as Serial No.40 of the Sadar Hills Sub-Division, Manipur North District. He would submit that in the Court of SDM/Sadar Hills, an order dated 18.6.1971 was passed in Misc. Case No.23 of 1971 recognizing the settlement land area of Purum Khullen thereby demarcating the land and issued map in recognition of the said land.

13. The learned counsel next submitted that with the support of the State Government, the village authorities have also undertaken different developmental projects in the village such as Government Primary Schools, Anganwadi Centres, Water Supply Scheme, Plantation of Trees etc. In continuation of the State's developmental project, the construction for Manipur

International University at Purum Khullen has been underway and, as such, on 17.9.2020, the villagers employed workers for levelling of land. However, the officials alleged to be from DFO, Central Range, Mantripukhri intervened and forcefully stopped the ongoing construction work saying that the said land is situated within Sambei Purum Reserve Forest and not to continue any activity without their permission.

14. The learned counsel further submitted that when the petitioner went to the Forest Office to enquire about the matter, the Chief Conservator showed the impugned letter dated 13.11.2020 addressed to the Principal Chief Conservator of Forests & HoFF with regard to cancellation of the order dated 18.6.1971 passed by the SDM/Sadar. Aggrieved by the said letter dated 13.11.2020, the petitioner submitted a representation on 5.4.2021 to the DFO, Central Forest Division for cancellation of the impugned letter. However, no action was taken till date.

15. The learned counsel urged that the villagers have been settled since the time of forefathers and depended on the forest products for their daily livelihood and, as usual, on 12.6.2022, when some of the villagers were cutting the firewood for their daily consumption, the officials from RO, Pangei came over and stopped the villagers from such activity and, thereafter, also some officials entered the village without any prior notice and stopped the villagers from taking

up any activity accusing the villagers stating that they are residing within Sambei Reserve Forest and threatened with dire consequences.

16. The learned counsel for the petitioner contended that with respect to the creation of Sambei Purum Reserved Forest, no letter specifying land area or land schedule was issued to the petitioner or his forefathers with respect to declaring the land of the petitioner as Reserved Forest which is in clear violation of Sections 4 and 6 of the Indian Forest Act, 1927. The act of the respondents has caused apprehension to the villagers that they might be evicted anytime from the land they are presently residing without due process of law. Hence, the petitioner has been advised to file the present writ petition.

17. Raising a preliminary objection as to the maintainability of the writ petition, the learned Advocate General submitted that Sembei Purum Reserved Forest came into existence in the year 1936 after a resolution of the Manipur State Darbar being Resolution No.4(A) dated 7.10.1936. The said Darbar resolution clearly shows the boundary of Sembei Purum Reserved Forest and since 7.10.1936, Sambei Purum Hill Range has been a full-fledged Reserved Forest owned by the then Princely State of Manipur under the British Rule. He would submit that after Manipur was merged into the Union of India, the Reserved Forest has been legally protected under the Indian Forest Act, 1927 and no mention of the Purum Khullen village is made in the Darbar Resolution No.4(A) dated 7.10.1936.

18. The learned Advocate General further submitted that Purum Khullen village, barring few households in the nearby hills, is situated at the foothills away from the boundary of Sambei Purum Reserved Forest and the area currently occupied by the main Purum Khullen village is covered by the cadastral survey map of 1960. In fact, the land of Purum Khullen village claimed by the petitioner corresponds the Reserved Forest area covered by Compartment No.1 and 3 of the Sambei Purum Reserved Forest.

19. The learned Advocate General urged that the attempt to construct the Manipur International University within the Sambei Purum Reserved Forest near Purum Khullen is clear violation of Section 26 of the Indian Forest Act, 1927, Section 2 of the Forest Conservation Act, 1980 and also the decisions of the Hon'ble Supreme Court as well as this Court in PIL No.25 of 2017. Arguing so, the learned Advocate General submitted that the writ petition is not maintainable and the same is liable to be dismissed.

20. In reply, the learned counsel for the petitioner submitted that the question of non-maintainability of the writ petition as preliminary objection does not arise, in view of the fact that on the strength of the impugned letter, the Conservator of Forest or its officials has no power to stop the ongoing construction work alleging that the land in question is situated within the Sambei Purum Reserve Forest. In fact, Purum Khullen does not fall within the Sambei

Purum Reserve Forest. Further, the villagers are not residing within the Purum Reserved Forest area alleged by the respondents. In fact, the Purum Khullen village has its own boundaries as per the Darbar Resolution No.4(A) dated 7.10.1936 and, as such, there is no violation of Section 26 of the Act.

21. This Court considered the rival submissions and also perused the materials available on record.

22. The grievance of the petitioner is that Purum Khullen village was established since the time of their forefathers and the village was also recognized under the Manipur State Hill Peoples (Administration) Regulation, 1947 and subsequently by the State Government. The village constituted their own Village Authorities under the Manipur (Village Authorities in Hill Areas) Act, 1956 and the Purum Khullen village has its own distinct and independent boundaries and the title is perfected. In fact, in the Court of SDM/Sadar Hills, an order dated 18.6.1971 was passed in Misc. Case No.23 of 1971 recognizing the settlement land area of Purum Khullen demarcated under the Land Schedule B and issued a map in recognition of the said land. Therefore, the forest officials have no right to prevent the villagers from doing the developmental project at Purum Khullen.

23. The petitioner challenged the impugned letter dated 13.11.2020 stating that the Conservator of Forest, Central Forest Circle, Government of Manipur has no authority to cancel the order dated 18.6.1971 and maps issued

by the SDM. It would be appropriate to quote the impugned letter for ready reference:

"I have to honor to forward herewith letter No.4/11/2020-21/DFO/CFD dt. 16.10.2020 of the DFO, Central Division on the above subject requesting for cancellation of order dated 18.06.1971 and maps issued by the SDM/SDC, Sadar Hills, Saikul allotting/demarcating land in Sambei Purum RF in favour of the Chief of Purum Khullen village.

The Sambei Purum Reserved Forest was notified as a reserved forest vide Darbar Resolution No.4(A) dated 07.10.1936 of the then President of Manipur State Darbar and the said resolution was also published vide Notice No.23 dt. 25.03.1937 of the Forest Member, Manipur State Darbar. Copy of the Darbar Resolution dt. 07.10.1937 and Notice dt. 25.03.1937 are also enclosed for ready reference.

The SDM/SDC, Saikul has no authority to issue such order and maps within the reserved forest land and the same is in gross violation of the provision of Section 2 of the Forest (Conservation) Act, 1980, Section 20 and 26 of the Indian Forest Act, 1927 and Hon'ble Supreme Court Order dated 12.12.1996 in WP(C) 202 of 1995. The said order is also null and void in view of the state Government's standing order No.55/12/8-For dt. 31.05.1994.

It is, therefore, requested to cancel the order dated 18.06.1971 and maps issued by the SDC/SDM as the same violates Act, Rules and Hon'ble Supreme Court order and also to avoid legal complicacies."

24. The petitioner claims right over the land in question based on the order dated 18.6.1971 passed in Misc. Case No.23/1971 by the SDM/Sadar Hills, Saikul. The respondents claim that the land claimed by the petitioner relates to Reserved Forest area covered by Compartment No.1 and 3 of Sambei Purum

Reserved Forest and Sambei Purum Reserved Forest came into effect in the year 1936 after a resolution of the Manipur State Darbar being Resolution No.4(A) dated 07.10.1936.

25. Prima facie, there appears to be dispute qua right over the land in question between the parties. As stated supra, the petitioner claims right over the land in question based on the order dated 18.6.1971 passed in Misc. Case No.23 of 1971. On the other hand, the respondents claim that the land in question is a Reserved Forest. Nothing has been produced by the petitioner to establish that Purum Khullen village is outside the boundary limits of Sambei Purum Reserved Forest. When the petitioner claims that Purum Khullen village is not coming under the Reserved Forest, it is his bounden duty to prove the same and the onus is heavily on the petitioner. Admittedly, there are no documents to substantiate the case of the petitioner.

26. The learned counsel for the petitioner argued that the fact regarding existence of Purum Khullen village within the existing boundary for over four centuries had been deliberately overlooked and some regulations which were introduced in the 20th Centuries are being applied and they can in no way apply the Purum Khullen village. Further submission of the learned counsel for the petitioner is that Sambei is a settlement which came up a century ago i.e. about 300 years after Purum Khullen was established and the so called Reserved

Forest, namely Sambei Purum Forest after the settlement. Since the village had existed much earlier, the name itself is derived from this village.

27. Though the petitioner contended that all the forests in the hill areas are unclassed forests owned by village communities and held in the name of Chief or Khullakpa and that is the reason why MLR Act could not apply to hill areas, nothing has been produced by the petitioner to prove the said contention.

28. The existence of order dated 18.6.1971 passed by the SDM/SDC, Sadar Hills has not been disputed by the respondents. The learned Advocate General contended that when Sambei Purum Reserved Forest was notified as a Reserved Forest vide Darbar Resolution No.4(A) on 7.10.1936 of the then President of Manipur State Darbar and the said resolution was also published vide Notice No.23 dated 25.3.1937, the SDM has no authority to issue the order dated 18.6.1971 within the Reserved Forest area. This Court finds some force in the submission made by learned Advocate General.

29. The provisions of the Indian Forest Act, 1927 clearly provides that de-reservation of any portion or whole of a Reserved Forest shall be possible only through a decision of the State Government and not by any other authority. Section 27 of the Act was valid upto 15.10.1980 and thereafter, the power to de-reserve a portion or whole of a Reserved Forest shall lie with the Central Government under Section 2 of the Forest Conservation Act, 1980. In view of

the above, the SDM did not enjoy the power to issue such order to give away portion of Sambei Purum Reserved Forest to Purum Khullen village.

30. The petitioner claims that the villagers are the absolute land owners of the land in question, as it has been inherited from their forefathers and has been settling upon the said land peacefully. The respondents denied the claim made by the petitioner by stating that the land in question is Reserved Forest land. Since disputed question of fact involved, exercising jurisdiction under Article 226 of the Constitution of India, such disputed question cannot be decided in this writ petition.

31. On a reading of the averments set out in the writ petition, this Court finds that though the petitioner is the Chief of Purum Khullen village, he has not filed the instant writ petition under representative capacity. There is no whisper about the filing of the present writ petition for himself and on behalf of the villagers of Purum Khullen.

32. The way in which the instant writ petition filed by the petitioner is not maintainable. Since the villagers of Purum Khullen are tribals, their life has been interconnected with the land and forest. That apart, tribal and their forest are inseparable and the social custom of tribals is guaranteed under the Constitution of India in respect of their possession upon the land and forest in question. When the aforesaid is the position, this Court in a writ petition cannot decide and declare the rights of the villagers of Purum Khullen over the land in question in

their favour. It is the appropriate Government to decide taking note of the existing law and the ground situation. It is also the duty of the Government to safeguard the tribals who are living in the Forest land or nearby the Forest land. The Government ought to ensure right to life enshrined under Article 21 of the Constitution of India and also the peaceful co-existence of the poor villagers who are settling since time immemorial not to be disturbed, as the villagers/tribals are history of the State.

33. For all the reasons stated above,

- (a) The writ petition is not maintainable and, accordingly, the same is dismissed.
- (b) However, liberty is given to the villagers of Purum Khullen to work out their remedy before the competent authority/government for redressal of their grievance either for compensation or alternative place.
- (c) On receipt of any representation from the villagers, the respondents are directed to consider the same sympathetically and pass appropriate speaking order.
- (d) There will be no order as to costs.

ACTING CHIEF JUSTICE

FR/NFR

John Kom